

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN
CALIFORNIA GAS COMPANY For
Authorization to Establish a Revenue Sharing
Mechanism for the Production of Native Gas.
(U 904 G)

Application 04-01-034
(Filed January 26, 2004)

ADMINISTRATIVE LAW JUDGE'S RULING

Summary

Today's ruling addresses the April 19, 2005 "Motion to Sever and Suspend Consideration of Access Issues" that was filed by the Office of Ratepayer Advocates, The Utility Reform Network (TURN), and Southern California Generation Coalition (SCGC). The ruling grants the motion to sever consideration of the future terms and conditions of access from this proceeding. However, that part of the motion seeking to suspend consideration of all the access issues in this proceeding until the access issues are decided in other proceedings is denied. The issues regarding future access by California natural gas producers to the gas system of Southern California Gas Company (SoCalGas) shall be addressed in Application (A.) 04-08-018.

This ruling also solicits comments on whether there is a need for any evidentiary hearings in connection with this proceeding and the stipulation which was attached to the July 21, 2004 joint motion of SoCalGas, the Indicated Producers (IP), California Independent Petroleum Association (CIPA), and the Western States Petroleum Association (WSPA). If no evidentiary hearings are

needed, this ruling proposes that a draft decision addressing the joint motion to adopt the stipulation be prepared.

Background

Following the April 27, 2004 prehearing conference, the scoping memo and ruling was issued on May 26, 2004. The scoping memo and ruling identified the scope of issues to be addressed in this proceeding, established the dates for submitting prepared testimony, and scheduled evidentiary hearings for August 24, 2004 through August 27, 2004.

On July 21, 2004, the joint motion to adopt the stipulation was filed.¹ No responses to the joint motion to adopt the stipulation were filed.

On August 13, 2004, SoCalGas requested that the evidentiary hearings be suspended indefinitely due to discussions among the parties about resolving this proceeding. In an August 16, 2004 e-mail to the parties, the assigned administrative law judge notified the parties that the evidentiary hearings would be taken off calendar, and that a new procedural schedule would be established after SoCalGas proposed new dates.

A status report was filed on October 29, 2004. The status report provided an update on the continuing negotiations in A.04-08-018, which is the application that the stipulation required SoCalGas to file. A.04-08-018 requests that the Commission address certain specific issues about the entry of California gas into SoCalGas' system.

¹ On August 20, 2004, SoCalGas filed its "Supplement to Joint Motion for Approval of Stipulation Filed July 21, 2004."

Another status report was filed on June 3, 2005 in A.04-08-018. That status report anticipates that the parties will complete their settlement negotiations in that proceeding within the next several months, and requests that a prehearing conference be held in August 2005. In a June 27, 2005 ruling in A.04-08-018, a prehearing conference was noticed for August 17, 2005 to discuss, among other things, the scope of issues to be addressed in that proceeding, the status of negotiations, and the status of the standardized interconnection and operational balancing agreement (IOBA) in Phase II of Rulemaking (R.) 04-01-025 and its impact on A.04-08-018.²

Motion to Sever

The motion to sever requests that the Commission sever the access issues in this proceeding, and that consideration of the access issues be suspended pending the outcome of the consideration of access issues in R.04-01-025, SoCalGas' Advice Letter 3413-A, and possibly in A.04-12-004.³ The moving parties contend that since the access issues are being considered "in at least three other forums, it would be duplicative for the Commission to consider access issues in the instant proceeding," and it would waste the resources of the parties

² SCGC filed a motion to suspend consideration of the issues in A.04-08-018 until the issues in Phase II of R.04-01-025 are resolved. This motion was mentioned in the June 27, 2005 ruling in A.04-08-018. The June 27, 2005 ruling also notes that the IOBA workshop report recommends that the IOBA being developed in R.04-01-025 should not apply to California gas producers.

³ Advice Letter 3413-A is proposing a revised open access tariff that reflects the modifications ordered in Resolution G-3376. A.04-12-004 is addressing the application of SoCalGas and San Diego Gas & Electric Company to integrate their two gas transmission systems, to establish a system of firm access rights using transmission zones, and to provide off-system deliveries.

and the Commission to consider the access issues in this proceeding. (Motion, p. 4.)

Responses in opposition to the motion to sever were filed by ExxonMobil Gas & Power Marketing Company, and jointly by the CIPA, California Natural Gas Producers Association, IP, and WSPA. SoCalGas also filed a response urging quick action on the motion, but did not take a position on whether the access issues should be severed. All three of the responses pointed out that the access issues by California gas producers to the gas system of SoCalGas were also raised in A.04-08-018.

The two responses in opposition to the motion contend that the access issues should be considered in this proceeding because it is important to understand the terms and conditions under which SoCalGas' native gas production will be delivered into SoCalGas' system. The opposing parties also state that the stipulation provides a negotiated framework for resolving this proceeding, while access issues are decided in A.04-08-018. The responses in opposition to the motion also note that in the event the motion to sever is going to be granted, the severed access issues should be considered in A.04-08-018.

Since access to the SoCalGas system by California gas producers is an issue in A.04-08-018, and because A.04-08-018 was intended by SoCalGas to fulfill its obligation to address the stipulation's requirement that the terms and conditions of access be addressed in a new application, the motion to sever the future terms and conditions of access from consideration in this proceeding should be granted. To the extent the motion seeks to suspend consideration of all the access issues pending the outcome of the access issues in the aforementioned

proceedings, which could delay whether or not the stipulation should be adopted in this proceeding, that part of the motion should be denied.⁴ The future terms and conditions of access for California gas production to SoCalGas' system shall be addressed in A.04-08-018.⁵

Procedural Next Steps

The joint stipulation appears to resolve many of the issues that were identified in the scoping memo and ruling. In addition, SoCalGas' June 17, 2004 supplemental testimony responded to certain issues identified in the scoping memo and ruling. The July 21, 2004 testimony of TURN's witness and the testimony of SCGC's witness raised some concerns, but neither of those parties filed a response to the motion to adopt the stipulation.

No action has been taken yet on the motion to adopt the stipulation. The reason for the delay was to determine if parties could settle all other issues in this proceeding and the access issue A.04-08-018.

⁴ Paragraph 6 of the stipulation states in part that SoCalGas is to file an application "to address gas quality monitoring protocols and off-shore and on-shore California producer access terms and conditions. A.04-08-018 was filed by SoCalGas as a result of Paragraph 6. Paragraph 8 of the stipulation provides in part that pending final resolution of A.04-08-018, "SoCalGas will apply all rules, regulations, agreements, standards, protocols, tariffs or other terms and conditions ... to its native gas production operations in the same manner in which it applies these access rules to other California nonutility natural gas producers." Because of that provision, the portion of the motion to suspend consideration of the access issues in this proceeding should not be granted.

⁵ As noted in the June 27, 2005 ruling in A.04-08-018, the access issues being addressed in A.04-08-018 may be impacted by the IOBA that is being addressed in Phase II of R.04-01-025.

In order to timely resolve all of the issues in this proceeding, I propose that if no evidentiary hearings are needed on any issues identified in the scoping memo, that a draft decision be prepared addressing the joint motion for adoption of the stipulation.

Parties to this proceeding shall have the opportunity to comment on whether or not there are any issues in this proceeding which require evidentiary hearings. If there are, the party shall identify the factual issues to be litigated and reference the relevant prepared testimony, and a proposed schedule for the evidentiary hearings. The comments shall be filed with the Commission's Docket Office and served on or before July 18, 2005. Any party who wants to respond to the comments, shall file and serve its response on or before July 29, 2005.

Therefore, **IT IS RULED** that:

1. The April 19, 2005 "Motion to Sever and Suspend Consideration of Access Issues" filed by the Office of Ratepayer Advocates, The Utility Reform Network, and the Southern California Generation Coalition, is granted with respect to severing the future terms and conditions of access by California gas producers to Southern California Gas Company's (SoCalGas) system from this proceeding, but is denied with respect to suspending consideration of the access issues in this proceeding until the access issues are considered in other proceedings.

- a. Access issues pertaining to the future terms and conditions of access to the gas system of SoCalGas by California gas producers shall be addressed in Application 04-08-018.

2. Parties to this proceeding may file and serve comments on whether there are any factual issues in dispute which require evidentiary hearings in this proceeding or if the Commission should proceed with the drafting of a decision addressing the joint motion to adopt the stipulation.

- a. Any comments requesting evidentiary hearings shall be filed with the Commission's Docket Office and served on or before July 18, 2005, and shall identify the factual issue(s) in dispute and the relevant testimony, and a proposed schedule for the evidentiary hearings.
- b. Anyone seeking to respond to any comments shall file and serve a response to the comment(s) on or before July 29, 2005.

Dated June 30, 2005, at San Francisco, California.

/s/ JOHN S. WONG

John S. Wong
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated June 30, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.